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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,464	05/10/2001	Alain Goux	P20784	1435

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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,464

Applicant(s)

GOUX ET AL.

Examiner

Elizabeth M Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suematsu. U.S. Patent No. 4,439,482. Suematsu discloses that it is known to form adhesive tapes comprising warps and wefts of polyester fibers which are coated with pressure sensitive adhesive wherein the warp and weft fibers have different deniers so that they have different strengths in order to allow the tape to be easily torn. See col. 1, line 38 - col. 2, line 5. Suematsu differs from the claimed invention because it does not disclose the claimed dtex/cm, strength or dtex. However, since Suematsu does teach that the warp and weft should have different strength and denier in order to produce a tape which is easily tearable, Suematsu recognizes the denier of a fiber as a result effective variable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the particular dtex, dtex/cm and strength of the fibers through the process of routine experimentation in order to arrive at a tape having the optimal tearability and strength. The use of protective release layers is conventional in the art.

3. Applicant's arguments filed 7/17/03 have been fully considered but they are not persuasive. Applicant argues that the Suematsu reference does not teach that longitudinal threads are held in place in the transverse direction by the adhesive. However, the reference teaches applying the adhesive to the warp and weft fibers. The claims do not recite that the fibers are held in place only by the adhesive, nor that only

the longitudinal fibers are held in place. Similarly, although the tape of Suematsu comprises a resin layer in addition to the pressure sensitive adhesive, the instant claims do not preclude the presence of additional layers since the claim employ "open" claim language.

Applicant argues that it cannot be automatically assumed that the pressure sensitive adhesive participates in the immobilization of the longitudinal threads. However, if an adhesive layer is applied to the longitudinal threads as taught by Suematsu, the adhesive layer would necessarily at least partially hold the longitudinal threads in place. Also, as set forth above, the claims do not recite that only the pressure sensitive adhesive immobilizes the threads, but rather recite "the longitudinal threads being held in place in the transverse direction by the adhesive". The claims do not require immobilization, but instead only require "being held in place". A coating of an adhesive on the threads would necessarily hold the threads in place. The fact that the Suematsu reference also uses a resin layer to hold the threads in place and to *enhance the tearability of the tape* are not relevant because the claims as currently presented do not preclude either of these elements.

Applicant's discussion of case law has been carefully considered and noted. However, the office action is not asserting that it would have been obvious to have modified the adhesive layer or how the threads interact with the adhesive layer, but rather are concerned with the particulars of the fibers, such as denier, dtex, strength, etc. The limitations regarding the adhesive and the longitudinal threads are met by the reference without modification.

With regard to claims 12-20 and 22-29, as set forth above, since the strength of fibers is related to the fibers denier and dtex, and since Suematsu teaches that the denier of the fibers can be varied in order to optimize the tearability of the tape, it would have been obvious to have selected the particular dtex, denier and strength through the process of routine experimentation, motivated by the expectation that this would result in tapes having the desired degree of tearability as taught by Suematsu.

4. Claim 31 is allowed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for all official faxes is (703) 872-9306. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c